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EXAMINER
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DESAI, RACHNA SINGH

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PAPER

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* NIKOLAI GRIGORIEV

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Appeal 2008-0250  
Application 09/699,572  
Technology Center 2100

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Decided: April 23, 2008

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Before ALLEN R. MACDONALD, JAY P. LUCAS, and STEPHEN C.  
SIU, *Administrative Patent Judges*.

SIU, *Administrative Patent Judge*.

DECISION ON APPEAL

I. STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1-20. We have jurisdiction under 35 U.S.C. § 6(b). We reverse.

A. INVENTION

1 The invention at issue involves rendering tabular data (Spec. 1). In particular, cells of a table are parsed and stored in a grid. Formatting commands are used to render the cells to a target media (*id.* 5).

B. ILLUSTRATIVE CLAIM

Claim 1, which further illustrates the invention, follows:

1. A set of executable instructions operable to generically render a table for output processing, comprising the steps of:

receiving a table having a plurality of cells wherein each cell spans one or more columns and one or more rows;

representing the table as a geometric grid wherein one or more positions within the grid house one or more of the cells, and wherein each cell is assigned a synchronization marker; and

providing a generic table represented by one or more formatting commands operable to provide a rendering of the grid to one or more output media, wherein a size of the generic table is configurable and when the grid is rendered to the one or more output media by processing different ones of the cells representing different aspects of a same version of the generic table in an order defined by each cell's synchronization marker, wherein a number of cells which have a same synchronization marker are processed together as an independent group, and wherein at least two different cells have the same synchronization marker, and wherein the cells are processed in a sequential order defined by their corresponding synchronization marker to render the grid.

### C. REJECTIONS

Claims 1-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,883,635 (“Rao”) and U.S. Patent No. 6,584,476 (“Chatterjee”).

## II. ANALYSIS

### A1. EXAMINER'S REJECTION

Appellant disputes the Examiner’s rejection of independent claims 1, 8, and 15 and argues that “the proposed combination (of Rao and Chatterjee) lacks any teaching of ‘synchronization markers’ as defined by Applicants’ independent claims” (emphasis added) (App. Br. 12) because the “synchronization” of Chatterjee “is associated with a record and is for version control” and “is not associated with a ‘cell’ or a table that is being rendered” (*id.*). Appellant also argues that “the synchronization fields in Chatterjee are incapable of defining any processing order” and that “there is no order defined at all across different synchronization fields because processing is for a single field value” (*id.* 13).

The Examiner states that Chatterjee discloses “wherein each cell is assigned a synchronization marker” that allows “a user to make changes to the design and update the database with the changes. See column 2, lines 20-54” (Ans. 16). While the Examiner finds that Chatterjee discloses that a user may “update the information” within a database, “with the updates not being visible to other users while the information is being updated” (col. 2,

ll. 23-24), the Examiner has not demonstrated that Chattergee discloses processing cells in a table with a same synchronization marker together as an independent group, or that cells in the table are processed in a sequential order defined by the corresponding synchronization marker to render a grid. Nor has the Examiner provided a rationale as to how updating information within a database (Chattergee) is equivalent or suggestive of assigning a synchronization marker to cells in a table and processing the cells in an order defined by the assigned synchronization markers.

The Examiner further states that

“if the synchronization values are the same, then any modifications made to the record are associated with each record that is synchronized which meets the limitation, ***‘when the grid is rendered to one or more output media each cell having a same synchronization marker are processed together as an independent group’***. See column 21, lines 1-20” (*id.*).

Chattergee discloses different versions of a database (e.g., in a “parent state” (unmodified) or in a “child state” (modified)), where each has a corresponding “synchronization value” that “will be the same . . . (to) . . . indicate that the two record versions are synchronized” (col. 21, ll. 4-10). (Emphasis added.) The Examiner does not demonstrate a nexus between the concept of synchronizing data in different versions of a database with processing cells in a table to render a grid by processing cells representing different aspects of a same version of the table in an order defined by each cell’s synchronization marker as recited in claims 1, 8, and 25.

Therefore, we reverse the rejection of claims 1, 8, and 25, and of claims 2-7, 9-14, and 16-20, which depend therefrom.

#### B1. BOARD'S REJECTION

Under 37 C.F.R. § 41.50(b) (2007), we enter a new rejection against claims 1-20. We reject claims 1-20 under 35 U.S.C. § 101(a) as being directed to non-statutory subject matter. Specifically, claims 1-20 recite “a set of executable instructions” which constitutes descriptive material *per se* not otherwise embodied or recorded on and functionally interrelated to a computer-readable medium. *In re Warmerdam*, 33F.3d 1354, 1360 (Fed. Cir. 1994).

Also, a method may “qualify as a section 101 process . . . when the process ‘either [1] was tied to a particular apparatus’ or [2] operated to change materials to a ‘different state or thing.’” *In re Comiskey*, 499 F.3d 1365, 1376 (Fed. Cir. 2007). In the present case, claims 1-20 recite processes that do not change or transform material to a different state. Nor do claims 1-20 recite processes that are tied to a particular apparatus.

Therefore, we reject claims 1-20.

*37 C.F.R. § 41.50(b)*

37 C.F.R. § 41.50(b) provides that, “[a] new ground of rejection pursuant to this paragraph shall not be considered final for judicial review.”

37 C.F.R. § 41.50(b) also provides that the Appellant, *WITHIN TWO MONTHS FROM THE DATE OF THE DECISION*, must exercise one of the following two options with respect to the new grounds of rejection to avoid termination of appeal as to the rejected claims:

(1) *Reopen prosecution.* Submit an appropriate amendment of the claims so rejected or new evidence relating to the claims so rejected, or both, and have the matter reconsidered by the examiner, in which event the proceeding will be remanded to the examiner ...

(2) *Request rehearing.* Request that the proceeding be reheard under 37 C.F.R. § 41.52 by the Board upon the same record ...

IV. ORDER

In summary, the rejection of claims 1-20 under § 103(a) is reversed. A new rejection of claims 1-20 under § 101, however, is added.

Appeal 2008-0250  
Application 09/699,572

No time for taking any action connected with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

REVERSED  
37 C.F.R. § 41.50(b)

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